

AR CEMETERY BOARD

Enabling Laws

Act 9 of 2003

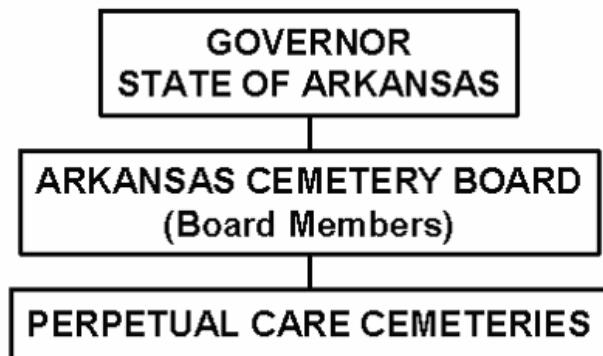
Act 250 of 1953 as amended. See A.S.A. §82-414

Act 352 of 1977 as amended. See A.C.A. §20-17-1001

History and Organization

Act 352 of 1977 created The Arkansas Cemetery Board. This Act established a seven (7) member Board to administer the issuance of permits to perpetual care cemeteries and to regulate and protect these perpetual care funds. Prior to Act 352 the regulation of perpetual care cemeteries was governed by Act 250 of 1953, as amended. Act 131 of 1983 increased the size of the Board by the addition of one member 60 years of age or over to serve as a representative of the State's elderly population. The Securities Commissioner is a voting member of the Board. The Governor appoints the six members of the Board. Four (4) of the six (6) members of the Board appointed by the Governor are owners or operators of licensed cemeteries in Arkansas. One of the members appointed by the Governor shall not have any interest in a cemetery or funeral home either within or outside of the State. One of the members appointed by the Governor shall be sixty (60) years of age or older, and shall represent the elderly. This member shall not be actively engaged in or retired from any profession or occupation regulated by the Board. The Governor also appoints one (1) alternate member that comes from the industry. The alternate member shall substitute when a conflict of interest disqualifies a regular member. Members are appointed for terms of four (4) years.

The mission of the Board is to protect the interests of Arkansas citizens who have purchased or own spaces in Arkansas cemeteries that are advertised or operated as being perpetual care or permanent maintenance cemeteries. The Board in conjunction with the staff of the Arkansas Securities Department performs the duties of the Board.



Agency Commentary

The Arkansas Cemetery Board is responsible for protecting the financial interests of the public by ensuring the physical care of the cemeteries and the sound financial condition of the trust funds

through the regulation of those companies advertising or operating perpetual care cemeteries in the State of Arkansas. The Board relies on the staff of the Arkansas Securities Department to perform the duties of the Board, such as conduct examinations, examine annual reports, investigate and issue permits, provide legal services, and perform administrative duties.

The Board proposes to move \$3,627 from Professional Fees and Services to Operating Expenses. This money is budgeted to pay court reporters. The Office of Accounting now requires court reporter expenses to be paid from commitment item 5020002. The Board also proposes to move \$2,825 from Travel-Conference Fees to Operating Expenses due to the Board not attending any training or seminars.

The Board feels that it is important that each industry pay for the cost of the regulation necessary to adequately assure public trust. Therefore, the Board proposes to increase the fees required of the cemeteries in order to reimburse the Securities Department for its expenses incurred in its role of supporting the Board and to pay the expenses of the Board. The Board proposes to increase the annual report fee to a flat fee of \$250.00, to increase the new permit fee to \$1,000.00, to increase the change of ownership fee and the amendment to permit fee to \$400.00, and to charge a new fee of \$7.50 per contract sold subject to approval of the Board. The new fees should increase revenues by an additional \$78,948. The total revenues of the Board dedicated to the operation of the Board would be increased to \$90,348. The Board also receives \$9,500 from renewal fees on loans and \$2,400 in interest.

Audit Findings

DIVISION OF LEGISLATIVE AUDIT
AUDIT OF :
ARKANSAS CEMETERY BOARD
FOR THE YEAR ENDED JUNE 30, 2003

| Findings | Recommendations |
|----------|-----------------|
| None | None |

Publications

A.C.A 25-1-204

| Name | Statutory Authorization | Required for | | # Of Copies | Reason (s) for Continued Publication and Distribution |
|--|--|--------------|------------------|-------------|---|
| | | Governor | General Assembly | | |
| Publication of the Board's Quarterly and Special Board Meeting Agendas | Required by Rule 4.01 of the Ark. Cemetery Board | N | N | 102 | Publish and mail agenda for each meeting of the Ark. Cemetery Board to interested parties and the public as required by Rule 4.01 of the Board's Rules and to comply with Freedom of Information Act. |

Change in Fee Schedule

| CURRENT FEE STRUCTURE | | | | PROPOSED CHANGE | | | |
|-------------------------|------------|------------------------------|----------------------------|-----------------|--------------------|-----------|-----------------------------------|
| Description | Fee Amount | Estimated Receipts 2004-2005 | Authorizing Act or AR Code | Fee Amount | Estimated Receipts | | Reason for Change |
| | | | | | 2005-2006 | 2006-2007 | |
| Amendment to permit fee | \$100.00 | \$400 | 20-17-1011(b) | \$400.00 | \$1,600 | \$1,600 | To reimburse the Securities Dept. |
| Annual report fee | \$50.00 | \$8,000 | 20-17-1023(b) | \$250.00 | \$23,500 | \$23,500 | To reimburse the Securities Dept. |
| New permit fee | \$200.00 | \$200 | 20-17-1008 | \$1,000.00 | \$1,000 | \$1,000 | To reimburse the Securities Dept. |
| Change of ownership | \$100.00 | \$400 | 20-17-1012 | \$400.00 | \$1,600 | \$1,600 | To reimburse the Securities Dept. |
| Contract Sale fee | \$0.00 | \$0 | New legislation | \$7.50 | \$60,248 | \$60,248 | To reimburse the Securities Dept. |

Analysis of Budget Request

Appropriation / Program: 843 - Cemetery-Treas Pay

Funding Sources: NCB - Cemetery Board - Cash

The Arkansas Cemetery Board was created by Act 352 of 1977 to regulate perpetual care cemeteries including municipal, church, family and non-profit community cemeteries. The Board is a cash agency funded from the issuance of permits, amended permits, or examination of cemeteries. The staff of the Arkansas Securities Department handles all administrative work therefore no positions are needed.

Arkansas Code Annotated §20-17-1025 empowered the Board to provide the funding necessary to make loans to a court appointed receiver or conservator. The loans help assure that a cemetery placed in receivership will be properly maintained and continue to be a viable operation.

The Board proposes to move \$3,627 from Professional Fees and Services to Operating Expenses. This money is budgeted to pay court reporters. The DFA-Office of Accounting now requires court reporter expenses to be paid from Operating Expenses. The Board is also proposing to move \$2,825 from Travel to Operating Expenses and decrease the Loans line item by \$40,000 in FY06 and \$81,000 in FY07. Expenditure of appropriation is contingent upon available funding.

The Board is requesting an increase in fees required of the cemeteries in order to reimburse the Securities Department for expenses incurred in its role of supporting the Cemetery Board and to pay Board expenses.

The Executive Recommendation provides for the Agency Request. The Executive Recommendation does not provide recommendations on fee increases.

Appropriation / Program Summary

Appropriation / Program: 843 Cemetery-Treas Pay
Funding Sources: NCB - Cemetery Board - Cash

| Historical Data | | | | Agency Request and Executive Recommendation | | | | | |
|--|---------------|----------------|----------------|---|----------------|----------------|----------------|---------------|---------------|
| Commitment Item | 2003-2004 | 2004-2005 | 2004-2005 | 2005-2006 | | | 2006-2007 | | |
| | Actual | Budget | Authorized | Base Level | Agency | Executive | Base Level | Agency | Executive |
| Operating Expenses 5020002 | 7,265 | 9,548 | 9,548 | 9,548 | 90,327 | 90,327 | 9,548 | 90,327 | 90,327 |
| Travel-Conference Fees 5050009 | 0 | 2,825 | 2,825 | 2,825 | 0 | 0 | 2,825 | 0 | 0 |
| Professional Fees and Services 5060010 | 1,993 | 3,627 | 3,627 | 3,627 | 0 | 0 | 3,627 | 0 | 0 |
| Data Processing 5090012 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Capital Outlay 5120011 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Loans 5120029 | 55,945 | 90,000 | 90,000 | 90,000 | 50,000 | 50,000 | 90,000 | 9,000 | 9,000 |
| Total | 65,203 | 106,000 | 106,000 | 106,000 | 140,327 | 140,327 | 106,000 | 99,327 | 99,327 |
| Funding Sources | | | | | | | | | |
| Fund Balance 4000005 | 172,932 | 134,179 | | 49,079 | 49,079 | 49,079 | 8,600 | 8,600 | 8,600 |
| Special Revenue 4000030 | 26,450 | 20,900 | | 65,521 | 99,848 | 99,848 | 97,521 | 90,848 | 90,848 |
| Total Funding | 199,382 | 155,079 | | 114,600 | 148,927 | 148,927 | 106,121 | 99,448 | 99,448 |
| Excess Appropriation/(Funding) | (134,179) | (49,079) | | (8,600) | (8,600) | (8,600) | (121) | (121) | (121) |
| Grand Total | 65,203 | 106,000 | | 106,000 | 140,327 | 140,327 | 106,000 | 99,327 | 99,327 |

AFTER FEE INCREASE. Increases in fees will result in an additional \$78,948 in revenue which will allow the Board to reimburse the Securities Department for its costs incurred while supporting the Cemetery Board.

The Fund Balances - State Agencies language does not currently apply to this Agency.

Change Level by Appropriation

Appropriation / Program: 843-Cemetery-Treas Pay
Funding Sources: NCB - Cemetery Board - Cash

Agency Request

| Change Level | | 2005-2006 | Pos | Cumulative | % of BL | 2006-2007 | Pos | Cumulative | % of BL |
|--------------|---------------------|----------------|----------|----------------|--------------|----------------|----------|----------------|--------------|
| BL | Base Level | 106,000 | 0 | 106,000 | 100.0 | 106,000 | 0 | 106,000 | 100.0 |
| C01 | Existing Program | 84,897 | 0 | 190,897 | 180.0 | 84,897 | 0 | 190,897 | 180.0 |
| C03 | Discontinue Program | (50,570) | 0 | 140,327 | 132.3 | (91,570) | 0 | 99,327 | 93.7 |

Executive Recommendation

| Change Level | | 2005-2006 | Pos | Cumulative | % of BL | 2006-2007 | Pos | Cumulative | % of BL |
|--------------|---------------------|----------------|----------|----------------|--------------|----------------|----------|----------------|--------------|
| BL | Base Level | 106,000 | 0 | 106,000 | 100.0 | 106,000 | 0 | 106,000 | 100.0 |
| C01 | Existing Program | 84,897 | 0 | 190,897 | 180.0 | 84,897 | 0 | 190,897 | 180.0 |
| C03 | Discontinue Program | (50,570) | 0 | 140,327 | 132.3 | (91,570) | 0 | 99,327 | 93.7 |

Justification

| | |
|-----|---|
| C01 | The increases are to reimburse the Securities Dept. for providing the Cemetery Board with personnel, office space, equipment, and supplies. |
| C03 | The decrease of \$2,825 each year in Travel is due to the Board not attending any trainings or seminars. The decrease of \$3,627 each year in Professional Fees is due to court reporters now being paid from Operating Expenses which is required by DFA-Office of Accounting. The decrease of \$40,000 in FY06 and \$81,000 in FY07 for the Loans is due to a decrease in expenditures in this line item. |